
(1925) 02 MAD CK 0024
In the Madras High Court

Chakiri Subbayya and Others

APPELLANT

Vs

Lade Sreenivasa Rao

RESPONDENT

Date of Decision : 17-02-1925

Acts Referred:

Citation : (1925) 21 LW 694 : (1925) 49 MLJ 126

Hon'ble Judges : Spencer, J

Bench : Division Bench

Judgement

Spencer, J.—These Civil Revision Petitions raise a question of jurisdiction. The connected suits were brought by the Shrotriendmar to

recover rent for Faslis 1327, 1328 and 1329 and were filed in the District Munsif's Court of Madanapalle. The defendants, who are the

petitioners in the High Court, contend that these suits, being suits brought by a landholder of an estate to recover arrears of rent, are exclusively

cognizable by a Revenue Court.

2. Under Act VIII of 1865, Section 1, Shrotriendmars fell under the category of " landholders " and could proceed against their tenants before the

Collector for recovery of rent, provided that they had taken written leases or muchilikas from them, but they might themselves be the tenants of a

superior landlord [vide Rama v. Venkatachalam ILR (1885) M 576 and Suryanarayana v. Appa Rao ILR (1892) M 40 u/s 87 suits for arrears of

rent could also be instituted in Civil Courts.

3. Under Act 1 of 1908 not all Shrotriendmars and Inamdars are landholders, but only those who at the time of the grant did not own the

kudivaram, in other words, the share of a tenant with a right of occupancy. u/s 189 the jurisdiction of Civil Courts to try suits by landholders to

recover arrears of rent is taken away.

4. After this Court's order of remand the District Munsif has now found on reconsideration that the suits are cognizable by his Court and he has

granted decrees to the plaintiff. In revision the question of jurisdiction of the Civil Court is again mooted in this Court. The District Munsif found

upon such evidence as the parties produced before him that the original grant was not shown to be a grant of the melvaram only. He should have

added "" to a person not owning the kudivaram."" I am not satisfied, after hearing arguments, that this finding which is a mixed one of law and fact is

wrong and should not stand.

5. The plaintiff has acquired by purchase the rights of certain vrittidars or sharers in the village of Shrotriern Chinnarao Kottappalli alias Mahal. The

original grant, which was made 400 or 500 years ago, is not available. But we know from Ex. G that at the time of the inam settlement in 1865 the

village was divided into 30 vrittis and was then under the management of Government, that under the grant half of the revenue went to the

Shrotriemdars and the other half to the Government, that the vrittidars were; in possession of their vrittis or shares, and that there was then no

cultivable waste land but that much of the land had been encroached upon by the river and covered with tombs of Mahomedans. The plaintiff speaks

of "" cultivating tenants "" and the written statement alleges that the Shrotriemdars sold away their lands long ago and gave possession to the ryots.

Exs. D, BB, CC and DD are specimens of such sale deeds. The plaintiff's sale deed (Ex. C) mentions that the land was in the vendor's possession

and enjoyment with independent rights. It may be that at the present time the Shrotriemdars have only the melvaram right, but for the purpose of

jurisdiction it has to be decided whether at the time of the grant they had not the kudivaram right also. In the words of the Judicial Committee in

Suryanarayana v. Potanna ILR (1918) M 1012 is it ""proved or is there any evidence to suggest that at the time of the grant there were any tenants

in the village holding lands with any right of occupancy by custom or otherwise ?"" The evidence rather suggests that originally the Shrotriemdars or

vrittidars were themselves in possession with powers of alienation which they were exercising. At any rate it may be confidently said that it has not

been shown in this case that the kudivaram interest was at the time of the grant

in the hands of some one else than the donees. If the Shrotriendars were originally the kudivaramdars and the melvaram also was granted to them, but they divested themselves of the kudivaram right, the village is not an estate, for on a proper construction of Section 3(2)(d) the words "" to a person not owning the kudivaram thereof"" evidently refer to the time when the inam was granted (cf. page 52 of Mr. V. Ramadas" commentary on this Act).

6. The District Munsif therefore had jurisdiction to try these suits. The Civil Revision Petitions are dismissed with costs.